



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**
Deval L. Patrick, Governor ♦ Timothy P. Murray, Lt. Governor
♦ Aaron Gornstein, Undersecretary

HOUSING PRODUCTION PLANS

760 CMR 56.03(4)

Guidelines

March 2012



II. Measuring Progress Towards Local Goals

Housing Production Plans

I. Introduction

On February 22, 2008, the Department of Housing and Community Development (DHCD) promulgated 760 CMR 56.00, Comprehensive Permit; Low or Moderate Income Housing regulations.

These guidelines are developed to expand on 760 CMR 56.03(4) and describe the process and requirements for local preparation of a Housing Production Plan (HPP), submission of the HPP for DHCD approval, and certification of community compliance with the Plan in accordance with the HPP regulation.

These guidelines replace all former guidelines to Planned Production under 760 CMR 31.07(1)(i).

II. Highlights of Changes from the former Planned Production Program

- Planned Production thresholds are reduced to 0.5% of total housing units for a one year exemption from comprehensive permits; and 1.0% for a two year exemption (down from 0.75% and 1.5% respectively).
- Requirements for Housing Plans are expanded to include additional information.
- Approval is valid for five (5) years and communities can submit an amended/updated plan as local circumstances require.
 - Municipal approval by local planning board and select board or city council is required.
 - The HPP should identify implementation strategies which may include, but are not limited to, zoning changes, identification of potential sites, and the characteristics of the proposed construction.

III. The Housing Production Plan

What Is the Plan?

A Housing Production Plan (HPP) in 760 CMR 56.03(4) is a proactive strategy for planning and developing affordable housing. This HPP will assist communities to plan for low and moderate income residents by providing a diverse housing supply. The community should:

- Develop a strategy which will be used to meet its affordable housing needs in a manner consistent with the Chapter 40B statute and implementation regulations; and
- Produce housing units in accordance with its HPP.

The HPP identifies the housing needs of a community and the strategies it will use to make progress in facilitating the development of affordable housing. The HPP must be consistent with the regulation and these guidelines. HPPs approved by DHCD are posted at

www.mass.gov/dhcd

Why produce a Plan?

By taking a proactive approach in the adoption of a HPP, cities and towns are much more likely to achieve both their affordable housing and community planning goals. HPPs give communities that are under the 10% threshold of Chapter 40B but are making steady progress in producing affordable housing on an annual basis more control over comprehensive permit applications for a specified period of time.

A. Elements of the HPP

1. Comprehensive Housing Needs Assessment: It is important to understand who currently lives in the community, demographic trends affecting future growth, existing housing stock and future housing needs. The HPP must establish a strategic plan for municipal action with regards to housing, based upon a comprehensive housing needs assessment that, at a minimum, examines:
 - The most recent available census data of the municipality's demographics and housing stock. Reviewing census data is the starting point for a community's analysis and information may be found at <http://www.census.gov/>. Regional Planning Agencies, realtors and the media are also sources of information that may be used in an HPP.
 - A projection of future population and housing needs, taking into account regional growth factors, that covers the entire period of the plan.
 - Development constraints and limitations on its current and future needs should be clearly articulated. Maps can be helpful in identifying steep slopes, watershed areas or brownfields.
 - The municipality's plans to mitigate those constraints. Can any of the factors be mitigated to support development?
 - The capacity of the municipality's infrastructure to accommodate the current population and anticipated future growth, including plans for enlargement or expansion of existing infrastructure systems to ensure that both current and future needs are met. The infrastructure analysis should evaluate the capacity of water and sewer systems, roads, utilities, public transit, schools, and any other public facilities that will impact or be impacted by future housing development.

It may not be necessary for a community to create an entirely new plan to meet these requirements. Many communities have already adopted a plan or a series of plans that contain some or all of the required elements. Executive Order 418 Community Development Plans and Housing Strategies, current master plans, consolidated plans, or other housing strategies may contain some or all of the elements of a HPP. For guidance on converting an E.O. 418 Community Development Plan to a HPP, see Attachment B, "Adapting An E.O. 418 Community Development Plan Checklist."

However, municipalities must ensure that the existing plans or data are up-to-date. DHCD will request that a community update its former Affordable Housing Plan/Planned Production Plan if the affordable housing plan was approved five or more years ago.

2. Affordable Housing Goals: In addition to its needs assessment, when formulating its affordable housing goals, the community should also consider the types of housing most likely to be needed. What is the projected population of: working age? new household formation? special needs? elderly? frail elderly? What percentage of these populations is projected to be low or moderate income and in need of affordable housing? Does the existing housing supply match the needs of these populations? Does the community expect that there will be a range of housing types which will be affordable? Therefore, the HPP must address, at a minimum, the following matters:
 - A mix of types of housing, consistent with community and regional needs that
 - provides for a range of housing , including rental, homeownership, and other occupancy arrangements, if any, for families, individuals, persons with special needs, and the elderly, and
 - is feasible within the housing market in which they will be situated.
 - A numerical goal for annual housing production, pursuant to which there is an increase in the municipality's number of SHI Eligible Housing units by at least 0.50% of its total units (as determined in accordance with 760 CMR 56.03(3)(a)) during every calendar year included in the HPP, until the overall percentage exceeds the Statutory Minimum set forth in 760 CMR 56.03(3)(a). There should be a direct link between the setting of these goals and the results of the needs assessment. The numerical goal should be based on the total year round number of housing units. The total year round housing units is the total number of units for the community in the latest U.S. Census including any changes due to demolition or new construction.

More information on the requirements related to the eligibility of housing for inclusion in the SHI can be found at Section II.A of these Guidelines.

3. Implementation Strategies: The HPP shall include an explanation of the specific strategies by which the municipality will achieve its housing production goals as well as a time frame/schedule for achieving the housing goals identified. Each goal should include several specific milestones to indicate progress, including all of the following strategies, to the extent applicable:
 - The identification of zoning districts or geographic areas in which the municipality proposes to modify current regulations for the purposes of creating SHI Eligible Housing developments to meet its housing production goal. Zoning indicates a community's interest in the types of uses to be encouraged. The zoning strategy should identify where the zoning needs to be changed to accommodate additional dwelling units: can density be increased? can accessory apartments be accommodated? are upper story residential units allowed in commercial districts? In identifying geographic areas, communities must ensure that any constraints can be overcome in a timely and cost effective manner. Additionally, communities should consider the Commonwealth's Sustainable Development Principles at: <http://www.mass.gov/Ehed/docs/dhcd/cd/cdbg/sustainabledevprinciples.pdf>.

- The identification of specific sites for which the municipality will encourage the filing of Comprehensive Permit applications. Identification of specific sites should be consistent, to the greatest extent possible, with Sustainable Development Principles. Strategies should include any proposed zoning changes, advantages to construction on the site, an acknowledgement of site constraints, and the costs to overcome such constraints.
- Characteristics of proposed residential or mixed-use developments that would be preferred by the municipality for example, infill development, cluster developments, adaptive re-use, transit-oriented housing, mixed-use development, and/or inclusionary. Preferred characteristics should take into account the surrounding contextual of the built and natural environment. Characteristics placing special restrictions on the development of affordable housing, such as limiting size of affordable units, limiting diversity in types of housing, or applying other zoning constraints, will not be approved. In addition, affordable housing plans must be in compliance with all state and federal fair housing laws.
- Identification of municipally owned parcels for which the municipality commits to issue requests for proposals (RFP) to develop SHI Eligible Housing, including information on appropriate use of the site, and a timeline for the issuance of an RFP. DHCD can provide some assistance in the development of such an RFP.
- Participation in regional collaborations addressing housing development. Communities are encouraged to contact the Regional Planning Agencies for insight into establishing regional collaborations

B. Review and Approval of Housing Production Plans

Communities may submit a HPP developed in accordance with the regulation and these Guidelines to DHCD at any time. HPPs are reviewed to see that:

- they contain all the required elements, in accordance with the regulations and these Guidelines; and
- the elements of the HPP are consistent with each other, such as whether the goals address stated needs.

Reviewers pay special attention to the analysis of data, numerical goals, mix of housing proposed, production schedules, deed restrictions, and preferred sites for affordable housing development.

The Department shall conduct an initial 30-day completeness review, and it will notify the municipality of any deficiency and offer an opportunity to remedy the deficiency. Within 90 days after the Department's finding that the HPP is complete, the Department shall approve the HPP if it meets the requirements specified herein; otherwise, it shall disapprove the HPP. The Department shall notify the municipality of its decision to either approve or disapprove a HPP in writing. If the Department disapproves a HPP, the notification shall include a statement of reasons for the disapproval. If the Department fails to mail notice of approval or disapproval of a HPP within 90 days after its receipt, it shall be deemed to be approved. A municipality that

originally submitted a HPP that had been disapproved may submit a new or revised HPP to the Department at any time.

Effective Date

Once a HPP is approved, it will be deemed effective retroactive to the date the complete HPP was received by DHCD. If amendments are submitted for an approved HPP, the original effective date will hold.

C. Amendments

A community may amend its HPP at any time to reflect changes in local circumstances. DHCD does not require that communities submit amendments when specific projects change, such as in size or location. However, communities are encouraged to submit amendments for DHCD approval, to document the change(s) if the overall goals or strategies are revised. If, in the discretion of DHCD, the amendment is considered to be a major change, such as the incorporation of new census data, the Department may require the full 90 day review process.

IV. Term; Renewal

The term of an HPP, including HPPs approved under the prior regulations and Guidelines, shall be five (5) years from the date of its approval by the Department. All HPPs shall be updated and renewed within five (5) years of the date of its approval by the Department, through the full 90-day review process set forth above, or as the Department may otherwise require. The Department may, at its sole discretion, elect to treat a major amendment as a renewed HPP.

V. Certification of Municipal Compliance with the HPP

Requests for certification will be accepted by DHCD at any time during the calendar year in which the units are produced and up to January 10 of the following year. A community will be certified in compliance with an approved HPP if, during a single calendar year, it has increased its number of low- and moderate-income year round housing units (as counted on the SHI) in an amount equal to or greater than that enumerated in the approved HPP (0.5% or 1.0%).

- Units counted for certification must be produced after the effective date of a plan (i.e., the date DHCD received a complete plan for review).
- SHI Eligible Housing units shall be counted for the purpose of certification in accordance with the provisions for counting units under the SHI set forth in 760 CMR 56.03(2). Therefore, requests for certification may be submitted once the permits are final. In the case of comprehensive permits, final means the date the permit is filed with the city or town clerk if not subject to appeal. There is a 20-day waiting period for the filing of appeals, so requests for certification should not be submitted until after this 20-day period.
- If a community issues a permit towards the end of a calendar year, the request may be submitted before the 20-day waiting period is over.

Requests for certification may be submitted at any time, and the Department shall determine whether a municipality is in compliance within 30 days of receipt of the municipality's request.

Effective Date

The certification shall be deemed effective on the date upon which the municipality achieved its numerical target for the calendar year in question, in accordance with the rules for counting units on the SHI set forth in 760 CMR 56.03(2).

Term

So long as the units produced are SHI Eligible Housing units (see 760 CMR 56.03), a certification shall be in effect for a period of one year from its effective date if the community has increased its SHI Eligible Housing units 0.5% of year round housing units, or two years if it has increased its number of SHI Eligible Housing units 1.0% of year round housing units.

For example, if a community requests certification on June 13, 2008 for affordable units produced in 2008 totaling 0.5% of housing units, the certification period begins on June 13, 2008 and ends on June 12, 2009. If the request were based on an increase of 1.0% of housing units, the certification period would end on June 12, 2010.

If a community is certified compliant, decisions made by the Board will be deemed Consistent with Local Needs under the Act by the HAC, and the Board's denial or approval with conditions of a comprehensive permit application will be upheld as a matter of law.

VI. Submission Requirements: Contact Information

HPPs, amendments and updates must be accompanied by a letter signed by the Chief Elected Officer that states that the document:

- was adopted by the municipal planning board and select board or city council (the Chief Executive Officer, is the mayor in a city and the chair of the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer by the local charter);
- constitutes the community's affordable housing plan (for the HPP), or is an amendment or an update; and
- requests approval from DHCD.

Cover letters should also include a contact name, phone number and email address. They may be submitted in either hard or electronic copy. However, following DHCD approval, an electronic copy must be submitted for posting on DHCD's webpage.

Requests for certification must be accompanied by a letter signed by the Chief Executive Officer and contain any required documentation (e.g. comp permits and/or the "Requesting New Units Form for the Subsidized Housing Inventory") These documents are evidence that the required number of housing units has been produced during a calendar year and:

1. Have been newly produced pursuant to the approved HPP;
2. Are eligible to be counted on the Subsidized Housing Inventory (SHI); and
3. Are produced pursuant to the affordable housing plan.

The town manager or administrator may submit the certification request if given signatory authority by a local charter.

HPPs, amendments, updates and requests for certification should be sent to:

Aaron Gornstein Brooks, Undersecretary
Department of Housing & Community Development
Attn: MaryJane Gandolfo/ Phil Demartino
100 Cambridge Street, Suite 300
Boston, MA 02114

Electronic copies can be submitted by e-mail or on disk to: MaryJane.Gandolfo@state.ma.us

Department staff are available to answer questions on any matter related to HPPs. Please call 617-573-1357. The Department's website at www.mass.gov/dhcd also contains information that may be useful to municipalities in creating an HPP.

